

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

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CA 10-00688

PRESENT: SCUDDER, P.J., PERADOTTO, CARNI, GREEN, AND GORSKI, JJ.

MOHAWK VALLEY WATER AUTHORITY,
PLAINTIFF-RESPONDENT,

V

ORDER

STATE OF NEW YORK, ET AL., DEFENDANTS,
AND ERIE BOULEVARD HYDROPOWER, L.P.,
DEFENDANT-APPELLANT.
(APPEAL NO. 1.)

HISCOCK & BARCLAY, LLP, SYRACUSE (DOUGLAS J. NASH OF COUNSEL), FOR
DEFENDANT-APPELLANT.

HANCOCK & ESTABROOK, LLP, SYRACUSE (ALAN J. PIERCE OF COUNSEL), FOR
PLAINTIFF-RESPONDENT.

Appeal from an order of the Supreme Court, Oneida County (Samuel D. Hester, J.), entered April 24, 2008. The order denied the motion of defendant Erie Boulevard Hydropower, L.P. to dismiss plaintiff's ninth and seventeenth causes of action and granted the motion of plaintiff for leave to file and serve an amended complaint.

It is hereby ORDERED that said appeal is unanimously dismissed without costs (*see Smith v Russell Sage Coll.*, 78 AD2d 913, *affd* 54 NY2d 185, *rearg denied* 55 NY2d 878).

Entered: November 12, 2010

Patricia L. Morgan
Clerk of the Court